
HOUSE BILL No. 1185

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-22.

Synopsis: Deceptive electronic mail. Prohibits certain practices when a person sends unsolicited commercial electronic mail. Requires a person that sends unsolicited commercial electronic mail to place certain information in the subject line of the electronic mail and remove the electronic mail address of a person who requests to be removed from the sender's electronic mail lists. Prohibits the sale, offer to sell, and distribution in Indiana of software designed solely to falsify the point of origin or the routing information in electronic mail messages. Provides that the attorney general may seek judicial remedies for violation of the statute.

Effective: July 1, 2003.

Stilwell

January 8, 2003, read first time and referred to Committee on Technology, Research and Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1185

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-5-22 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:
4 **Chapter 22. Unsolicited Electronic Mail Advertising**
5 **Sec. 1. This chapter applies only to an electronic mail message**
6 **sent to an Indiana resident through an electronic mail service**
7 **provider's:**
8 (1) service; or
9 (2) leased or owned equipment;
10 located in Indiana.
11 **Sec. 2. As used in this chapter, "commercial electronic mail"**
12 **refers to an electronic mail message sent to:**
13 (1) solicit the sale or lease of:
14 (A) services; or
15 (B) tangible or intangible personal or real property; or
16 (2) offer an extension of credit.
17 **Sec. 3. As used in this chapter, "electronic mail service**



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provider" means a person that:

- (1) is an intermediary in sending or receiving electronic mail;
or
- (2) provides to end users of electronic mail services the ability to send or receive electronic mail.

Sec. 4. For purposes of this chapter, electronic mail is considered to be unsolicited if the electronic mail is sent without the recipient's express permission.

Sec. 5. A person may not do any of the following:

- (1) Send unsolicited commercial electronic mail and fail to disclose the actual point of origin electronic mail address of the electronic mail message.
- (2) Send unsolicited commercial electronic mail and provide false electronic mail transmission information or other routing information for the electronic mail message.
- (3) Send unsolicited commercial electronic mail and use a third party's Internet address or domain name without the third party's consent to transmit the electronic mail.
- (4) Send unsolicited commercial electronic mail and fail to use "ADV:" as the initial four (4) characters in the subject line of the electronic mail.
- (5) Send unsolicited commercial electronic mail and fail to use "ADV:ADLT" as the first eight (8) characters in the subject line of the electronic mail. This subdivision applies only to unsolicited commercial electronic mail containing a solicitation for:
 - (A) the sale or lease of services or tangible or intangible personal or real property; or
 - (B) an extension of credit;
 that may be viewed, purchased, leased, or possessed only by an individual at least eighteen (18) years of age.
- (6) Send unsolicited commercial electronic mail and fail to provide a:
 - (A) toll free telephone number; or
 - (B) valid electronic mail address;
 through which the recipient is able to remove the recipient's name from the sender's electronic mail address lists.
- (7) Send unsolicited commercial electronic mail to a recipient who has asked the sender to remove the recipient's electronic mail address from the sender's electronic mail address lists.
- (8) Provide to a third person the electronic mail address of a recipient who has asked the sender to remove the recipient's

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1 electronic mail address from the sender's electronic mail
 2 address lists. This subdivision applies to a third person who is
 3 a part of the sender's business organization. This subdivision
 4 does not prohibit providing a recipient's electronic mail
 5 address to a third person for the sole purpose of inclusion of
 6 the electronic mail address on a do not mail list.

7 (9) Send commercial electronic mail that contains misleading
 8 information in the subject line of the electronic mail.

9 (10) Sell in Indiana, offer to sell in Indiana, or distribute in
 10 Indiana software designed solely to falsify the point of origin
 11 or the routing information in electronic mail messages.

12 **Sec. 6. (a) A person who violates section 5 of this chapter**
 13 **commits a deceptive act that is actionable by the attorney general**
 14 **under this section.**

15 **(b) In an action under this section, the attorney general may**
 16 **obtain any or all of the following:**

17 **(1) An injunction to enjoin future violations of section 5 of this**
 18 **chapter.**

19 **(2) A civil penalty of not more than the following:**

20 **(A) Ten thousand dollars (\$10,000) for the first violation of**
 21 **section 5 of this chapter.**

22 **(B) Twenty-five thousand dollars (\$25,000) for each**
 23 **violation after the first violation of section 5 of this**
 24 **chapter.**

25 **For purposes of this subdivision, each unsolicited commercial**
 26 **electronic mail sent in violation of section 5 of this chapter is**
 27 **considered a separate violation.**

28 **(3) The attorney general's reasonable costs in:**

29 **(A) the investigation of the deceptive act; and**

30 **(B) maintaining the action.**

31 **(4) Reasonable attorney's fees.**

32 **(5) Costs of the action.**

33 **(c) An action brought under this section may not be brought**
 34 **more than two (2) years after the occurrence of the deceptive act.**

35 **(d) An action under this section may be brought in the circuit or**
 36 **superior court of Marion County.**

37 **(e) The attorney general may employ counsel to represent the**
 38 **state in an action under this section.**

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